

REMARKS

Applicants respectfully request reconsideration of this application as amended. Claims 1-7, 10, 12, 13, 15-27, and 30-45 remain in this application. Claims 1-7, 12-13, 15, 25-28, 30-36, and 45 have been allowed. Claims 1, 10, 16-18, 25, 31-33, 37-39, and 43-45 have been amended. Claim 28 has been canceled. No claims have been added.

Examiner Interview

Applicants wish to thank the Examiner for the courtesy of a telephonic interview conducted on February 10, 2009 in which Examiner indicated that claims 37-42, as amended, would overcome the current 35 U.S.C. § 101 rejection.

Rejections under 35 U.S.C. § 101

Claims 37-42 stand rejected under 35 U.S.C. § 101 because the claim invention is directed to non-statutory matter. In particular, the Examiner asserts that Applicant's machine-readable medium include propagated signals that are not processes, manufactures, or compositions of matter, or any new and useful improvement thereof. Applicants have amended claims 37-42 to claim a "machine-readable medium that is one of a magnetic disk, optical disk, random access memory, read only memory, and flash memory." Applicants respectfully submit that claims 37-42, as amended, satisfy the requirements of 35 U.S.C. § 101 and accordingly respectfully request the withdrawal of the rejection to claims 37-42 under 35 U.S.C. § 101.

Rejections under 35 U.S.C. § 112

Claims 43-44 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner asserts that the claim limitation of "each of the plurality of access nodes allocating a second path that has a link common with the first path, wherein the first and second paths have different source nodes" is not supported in Applicant's specification. Applicants have amended claims 43 (44) to claim each of the plurality of access nodes allocating (deallocating) a second communication path that has a link and wavelength thereon in common with the

first communication path, wherein the first and second communication paths have different source nodes.

Applicant respectfully submits that claims 43 and 44, as amended, are supported in Figures 12 and 14- 16 and paragraphs 62, 120, 125, 131, and 137 of Applicant's specification as filed. In these sections of the specification, Applicant discloses an access node receiving an update allocate (deallocate) channel message that includes a selected path sent from another access node (Specification, paragraphs 120, and 131). The receiving access node marks as allocated communication path(s) originating from the receiving access node that have a link and wavelength thereon in common with the selected communication path (Specification, paragraphs 125 and 137). The selected communication path has a source node of the access node that sent the update allocation (deallocation) channel message (Specification, paragraph 62). The communication paths with the allocated (deallocated) wavelengths selected by the receiving access node have the receiving access node as the source node (Specification, paragraph 62). Thus, the selected communication path (e.g., the first path) has a different source node than the communication paths with the allocated (deallocated) wavelength. Accordingly, Applicant respectfully submits that the claim limitation is supported in the Specification.

Claims 16-24 rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant respectfully submits that claims 16-24, as amended satisfies the requirements of 35 U.S.C § 112, second paragraph.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of the claims under § 112.

Allowed Claims

Applicants wishes to thank the Examiner for allowing claims 1-7, 12-13, 15, 25-28, 30-36, and 45.

Invitation for a telephone interview

The Examiner is invited to call the undersigned at 408-720-8300 if there remains any issue with allowance of this case.


Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

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